

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

FRED H. KELLER, ET AL.,)	
)	
Plaintiffs,)	Civ. Action No. 8:10-cv-270
)	
v.)	
)	
CITY OF FREMONT,)	
)	
Defendant.)	
)	

MARIO MARTINEZ, JR., ET AL.,)	
)	
Plaintiffs,)	Civ. Action No. 4:10-cv-3140
)	
v.)	
)	
CITY OF FREMONT, ET AL.,)	
)	
Defendants.)	
)	

**Joint stipulation of all Plaintiffs and Defendants in *Keller, et al. v. City of Fremont*,
and *Martinez et al. v. City of Fremont et al.* and Order Approving Stipulation**

Whereas, Plaintiffs in the above-captioned actions have filed motions for a preliminary injunction, and briefs and an index of evidence in support of it, seeking an order prohibiting enforcement of Fremont's municipal immigration ordinance, Ordinance No. 5165 ("Ordinance"), pending final judgment;

Whereas, the Court has set a schedule requiring that Defendants file their brief and evidence in opposition on or before January 21, 2011, and that Plaintiffs file their reply thereafter;

Whereas, Defendants have by Resolution No. 2010-140 ("Resolution"), adopted as a result of the filing of the above-captioned cases, dated July 27, 2010, of the City Council provided that the City "will not seek to implement or enforce Ordinance No. 5165 until fourteen days after final decision is entered" in the above-captioned case;

Whereas, in light of changes in the membership of the Fremont City Council, resignation of the Mayor Donald B. Edwards, and resignation of the City Administrator, Robert Hartwig, Plaintiffs are concerned that the changes may create uncertainty as to the continuing commitment of the Defendant City of Fremont not to implement or enforce the Ordinance during the pendency of this litigation;

Whereas, Plaintiffs believe that further steps by Defendants are necessary to provide protection to Plaintiffs against any implied or anticipated enforcement of the Ordinance;

Whereas, Plaintiffs and Defendants wish as much as possible to preserve the resources of the respective parties and of this Court;


Whereas, in light of Defendants' commitment to taking the steps described below and to preserving the status quo during the course of this litigation, if this stipulation is executed by counsel for Plaintiffs and Defendants in this case and approved by the Court, Plaintiffs have agreed to immediately withdraw the pending motion for preliminary injunction without prejudice.

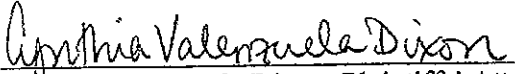
Therefore, Plaintiffs and Defendants by their respective attorneys jointly stipulate to and jointly request that the Court accept the following:

- A. Defendants have agreed that in the event that the City Council of Fremont proposes any new resolution or other legal instrument that would in any way modify Resolution No. 2010-140 of July 27, 2010, Defendants will provide Plaintiffs, through their counsel, with a minimum of fourteen (14) days notice in writing prior to any vote on the new resolution or other instrument, so that Plaintiffs can seek appropriate injunctive relief from this Court. However, Defendants by their counsel in this action have agreed that they will not seek to nullify, reverse or substantively modify Resolution No. 2010-140.
- B. The City of Fremont has prominently posted Resolution No. 2010-140 along with a notice, with both documents in English and in Spanish, on the City's website, in the same place where the Ordinance itself has been posted, announcing:
 - (1) the Ordinance is currently suspended during a legal challenge in the United States District Court for the District of Nebraska;
 - (2) the Ordinance is not in effect and it will not be enforced unless there is a final judgment that the Ordinance is legally valid, and
 - (3) no landlords, tenants, employers, employees or job applicants have any obligations under the Ordinance at this time.
- C. The City has prominently posted the same notice and Resolution No. 2010-140, in both English and Spanish, at the public notice bulletin board at City Hall and has agreed that it will publish them in the local daily newspaper in the City of Fremont no later than February 1, 2011.

- D. Copies of that same notice and of Resolution No. 2010-140 have been made available at no charge by the City of Fremont to businesses, landlords, employers, and any other member of the public requesting information about the status of the Ordinance. The copies are available in both English and Spanish.
- E. The City has agreed to advise and train all city employees who may have any contact with the public on any matters involving the Ordinance that the Ordinance is suspended, it is not in effect, and it will not be enforced during the pending litigation. Further, the City has agreed that these city employees will so advise members of the public requesting information about the Ordinance and will offer them copies of the notice and Resolution No. 2010-140 described above.
- F. The Plaintiffs, upon acceptance by the Court of this joint stipulation, have agreed to withdraw their motions for a preliminary injunction without prejudice.
- G. Nothing in this stipulation shall affect the legal positions the parties may take with respect to the merits of the claims in this action, and nothing in this stipulation purports to resolve or express any position on the merits of the claims in this action.

So Stipulated:

 1-21-11
Alan E. Peterson, Plaintiffs' Attorney in Behalf of
Plaintiffs in *Martinez, et al. v. City of Fremont, et al.*

 1-21-11
Cynthia Valenzuela Dixon, Plaintiffs' Attorney in Behalf of
Plaintiffs in *Keller, et al. v. City of Fremont.*

Kris W. Kobach

Kris W. Kobach, Defendants' Attorney in Behalf of
Defendants in *Keller, et al. v. City of Fremont* and
Martinez, et al. v. City of Fremont, et al.

Accepted this 21st day of January, 2011.

By the Court:

Juanita Smith Camp
United States District Judge

The Clerk will terminate Filing No. 7 (8:10cv 270)
and Filing No. 13 (4:10cv 3140) without prejudice.

Juanita Smith Camp
U.S. District Judge
1/21/11